

**ADMINISTRATIVE ORDER NO. 53-19-14-F**  
**of the**  
**City Manager Pro Tem of the City of Eugene**

**AMENDMENT OF PLASTIC BAG USE ADMINISTRATIVE RULE R-6.850 AND REPEAL OF ADMINISTRATIVE ORDER NO. 53-13-03-F.**

**The City Manager Pro Tem of the City of Eugene finds that:**

**A.** Section 2.019 of the Eugene Code, 1971, authorizes the City Manager to adopt rules for administration of provisions of the Eugene Code. Pursuant to that authority, on March 18, 2013, Administrative Order No. 53-13-03-F of the City Manager was adopted amending the Plastic Bag Use Administrative Rule R-6.850.

**B.** On November 25, 2019, the City Council adopted Ordinance Nos. 20623 and 20624 concerning restrictions on the use of polystyrene containers and single-use checkout bags. Those Ordinances became effective on December 27, 2019. Due to the adoption of Ordinance Nos. 20623 and 20624 and to meet requirements of House Bill 2509 (2019), it is necessary to amend the Plastic Bag Use Administrative Rule R-6.850.

**C.** On November 26, 2019, I issued Administrative Order No. 53-19-14 ordering that notice be given of the opportunity to submit comments on my proposal to amend Rule R-6.850. The Notice specified that comments would be received for 15 days from December 1, 2019, the first date of publication of the Notice.

**D.** One comment was received stating that the Single-Use Checkout Bag Ordinance and Rules should not be amended. Response: It was necessary to amend the Ordinance due to legislative changes made by the State. It should be noted that Ordinances are adopted by the City Council and cannot be amended by the City Manager. The proposed amendments to the Single-Use Checkout Bags and Polystyrene Rules are necessary in order to implement the Single-Use Checkout Bag Ordinance and Polystyrene Ordinance adopted by the City Council. Therefore, no changes are being made to the Rules as a result of the comment.

**E.** After the comment period, staff noticed that subsection 1 of R-6.850-A stated that exemptions from the requirements in EC 6.876 could not last longer than December 27, 2020. That provision is inconsistent with Ordinance No. 20623 which provides that requests for exemptions will not be accepted after December 31, 2020. The Rule should be corrected so it is consistent with the Ordinance. The correction is reflected in the Rules set forth below.

**BASED UPON** the above findings, the findings in Administrative Order No. 53-19-14, and pursuant to the authority contained EC 2.019, I order that:

- 1.** Effective December 27, 2019, the Plastic Bag Use Administrative Rule R-6.850 is renamed and amended as set forth below.
- 2.** Administrative Order No. 53-13-03-F is repealed effective December 27, 2019.

**POLYSTYRENE AND SINGLE-USE CHECKOUT BAG  
ADMINISTRATIVE RULE R-6.850**

**R-6.850-A Polystyrene -- Undue Hardship.**

1. EC 6.878 allows for Eugene retail food and beverage establishments to request an exemption from the requirements set forth in EC 6.876 Polystyrene Container Use for up to a one-year period. Requests for exemptions will not be accepted after December 31, 2020.

2. Retail food and beverage establishments seeking an exemption shall electronically submit an Exemption Request to the City of Eugene at [wasteprevention@ci.eugene.or.us](mailto:wasteprevention@ci.eugene.or.us). To be deemed complete, the Exemption Request must include:

a. The name, address and type of the retail food and beverage establishment;

b. A detailed statement describing:

(1) The reason(s) meeting the code requirements would create an undue hardship or practical difficulty;

(2) Any and all actions taken by the retail food and beverage establishment to overcome the hardship;

(3) How often the retail food and beverage establishment purchases polystyrene containers, when the last order of polystyrene containers was made, and how many polystyrene containers were ordered.

c. If a retail food and beverage establishment is requesting an exemption for multiple locations, each location must be identified within the Request.

3. The City may deny an exemption request based upon a finding that:

a. The Request is materially incomplete or inaccurate; or

b. The circumstances do not create an undue hardship or practical difficulty not generally applicable to other retail food and beverage establishments in similar circumstances.

4. Upon receipt of a complete request, the City shall provide written notice to the requester of approval or denial of the request. The notice shall state the reason for approval or denial.

**R-6.850-B. Enforcement.**

1. Pursuant to EC 2.018 and EC 6.995, and Administrative Civil Penalty Administrative Rule R-2.018, the City may impose administrative civil penalties on responsible persons for violation of any provision of EC 6.850 through EC 6.855, and EC 6.874 through 6.878.

2. Each day a violation occurs or continues constitutes a separate violation. Each violation of EC 6.855(a) and 6.855(b) or 6.876 constitutes a separate violation.

3. Notwithstanding the guidelines for administrative civil penalties contained in Administrative Civil Penalty Administrative Rule R-2.018, if a civil penalty is deemed by the City Manager or designee to be excessive in relationship to the nature of the violation, the City Manager or designee may reduce the fine based on consideration of the following criteria:

- a. Whether the violation results in benefits to the responsible party, economic or otherwise;
- b. Whether the violation was isolated and temporary or repeated and continuous;
- c. The length of time from prior violations;
- d. The magnitude and seriousness of the violation;
- e. The costs of investigation of the violation;
- f. Other relevant, applicable evidence bearing on the nature of seriousness of the violation.

4. A person against whom an administrative civil penalty has been imposed may appeal the decision according to the procedures described in EC 2.018.

5. A person against whom an administrative civil penalty has been assessed must pay the penalty within fifteen days of notice from the City. After the fifteenth day, interest will accrue on unpaid amounts.

Dated this 23 day of December, 2019.

  
  
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**Sarah Medary**  
**City Manager Pro Tem**